

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 2743
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 2743 addresses the growing concern that certain district or county attorneys are declining to enforce Texas election laws, potentially allowing election-related crimes to go unprosecuted. This bill aims to close a perceived enforcement gap by enabling the attorney general to step in and prosecute election offenses when local prosecutors adopt a policy or practice of nonprosecution.

Current Law

Under existing law, the authority to prosecute criminal election law violations primarily rests with local district and county attorneys. While the attorney general may be involved in election law enforcement in certain civil contexts or under limited statutory circumstances, criminal prosecution remains largely decentralized. This structure can lead to uneven enforcement across jurisdictions, particularly when a local prosecutor refuses to pursue election-related cases.

Problem Addressed

Some local prosecutors have publicly stated or demonstrated through inaction that they will not pursue certain types of election law violations. This bill seeks to ensure consistent statewide enforcement by creating a process through which residents can petition for the disqualification of a local prosecutor who has adopted such a non-prosecution policy or practice. Upon a court's finding of disqualification, the attorney general would be empowered to prosecute the case.

How the Bill Changes the Law

S.B. 2743 amends Article 2A.105 of the Texas Code of Criminal Procedure to allow a judge—upon petition from a resident and proper evidentiary showing—to disqualify a district or county attorney who refuses to prosecute election law violations. It further amends Section 273.021 of the Election Code to permit the attorney general to assume prosecutorial responsibility in such cases, following disqualification under the amended provision.

This approach maintains local prosecutorial independence while providing a legal mechanism to override inaction in the interest of statewide election law enforcement. Importantly, this disqualification process can only be initiated by residents who have lived in the applicable or adjacent county for at least six months, ensuring that the petitioner has a relevant stake in the local administration of justice.

Summary

S.B. 2743 establishes a legal safeguard to address non-enforcement of election laws by allowing limited intervention by the attorney general. It seeks to balance the need for consistent statewide enforcement with the protection of local prosecutorial autonomy through a structured judicial review process.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 2743 amends current law relating to the prosecution of certain election offenses.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 2A.104, Code of Criminal Procedure, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Creates an exception under Subsection (b-1).

(b-1) Requires the judge of a court in which an attorney representing the state is disqualified to act under Article 2A.105(d) or 2A.1051, to appoint an assistant attorney general to perform the duties of attorney's office during the attorney's disqualification. Provides that the duties of the assistant attorney general appointed under this subsection are additional duties of the Office of the Attorney General (OAG), and OAG is not entitled to additional compensation for performing those duties.

SECTION 2. Amends Article 2A.105, Code of Criminal Procedure, by adding Subsection (d), as follows:

(d) Requires a judge of a court in which a district or county attorney represents the state to declare the attorney disqualified for purposes of Article 2A.104(b-1) with respect to a criminal case or proceeding involving the elections laws of this state, on a showing that the attorney has adopted a policy or practice, or is following or enforcing a policy or practice, under which the attorney consistently refuses or declines to prosecute a violation of election laws of this state.

SECTION 3. Amends Subchapter C, Chapter 2A, Code of Criminal Procedure, by adding Article 2A.1051, as follows:

Art. 2A.1051. PETITION TO DISQUALIFY IN CERTAIN CASES. (a) Authorizes a person who has resided in the same county of this state for at least six months to file, in any district or county court for that county, a petition seeking the disqualification of a district or county attorney who serves that county or an adjacent county if:

(1) the district or county attorney filed a criminal case or proceeding involving the election laws of this state in a court for the county in which the person resides or for a county adjacent to the county in which the person resides; and

(2) the person has reason to believe that district or county attorney has adopted a policy or practice, or is following or enforcing a policy or practice, under which the attorney consistently refuses or declines to prosecute a violation of the election laws of this state.

(b) Requires the judge of the court in which a petition is filed under Subsection (a) to declare the attorney against whom the petition is filed disqualified for purposes of Article 2A.104(b-1) on the petitioner showing that the attorney has adopted or is following or enforcing a policy or practice described by Subsection (a)(2). Requires the judge, if the judge disqualifies an attorney under this subsection, to send notice to the judge of the court in which the case described by Subsection (a)(1) is pending that the attorney is disqualified and an appointment under Article 2A.104(b-1) is required.

(c) Authorizes a person described by Subsection (a), before a charging instrument in a criminal case is filed, with respect to a violation of the election laws of this state that a person has reason to believe occurred in the county in which the person resides, to file a petition seeking to refer the investigation and prosecution

of the violation to the office of the attorney general with a court described by that subsection in the same manner as if the violation had been filed as a case or proceeding described by Subsection (a)(1). Requires a judge of a court in which a petition is filed under this subsection to refer the care to the office of the attorney general if the petitioner makes the showing required by Subsection (b) with respect to the district or county attorney serving the petitioner's county of residence.

SECTION 4. Amends Section 273.021, Election Code, by adding Subsection (d), as follows:

(d) Authorizes the attorney general, in accordance with an appointment made under Article 2A.104(b-1), Code of Criminal Procedure, to prosecute a criminal offense prescribed by the election laws of this state on the disqualification of a district or county attorney under Article 2A.105(d) or 2A.1051, Code of Criminal Procedure, or on the referral of the case under Article 2A.1051(c), Code of Criminal Procedure.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2025.